

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-185671

DATE: January 29, 1976

MATTER OF: York Industries, Inc.

DIGEST:

Protest not filed within 10 working days from date of initial adverse agency action (furnishing of detailed basis as to nonresponsiveness determination) is untimely and not for consideration on merits.

York Industries, Inc. (York), has protested against the determination of the United States Army Aviation Systems Command (USAAVSCOM), St. Louis, Missouri, that its bid was nonresponsive to solicitation No. DAAJ01-76-R-0062.

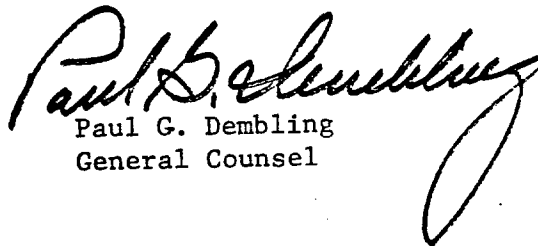
The solicitation, issued in August of 1975, was for 226 Hydraulic Accumulators. Under the terms and conditions of the solicitation, only those sources which had an approved item under USAAVSCOM Source Controlled Package Number 114HS133, or those sources which furnished evidence that their item had been approved, were eligible for award. York's bid was evaluated by USAAVSCOM Engineering elements and rejected as not meeting the Government's requirements. York was notified of the Army's determination on October 1, 1975. On October 13, 1975, York received a letter from the Army, in response to its request, providing detailed reasons for the rejection of its bid as being nonresponsive.

The Bid Protest Procedures of our Office urge protesters to first seek resolution of complaints with the contracting agency. However, when the protest has been initially filed with the contracting agency, any subsequent protest to this Office must be filed no later than 10 working day from formal notification of or actual or constructive knowledge of initial adverse agency action. 40 Fed. Reg. 17979 (1975). Adverse agency action is defined in section 20.0(b) of our procedures as:

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"* * * any action or inaction on the part of a contracting agency which is prejudicial to the position taken in a protest filed with an agency. * * *"

Here, the date of initial adverse agency action was October 13, 1975, when York received details as to why the Army had determined its bid to be nonresponsive. Therefore, protest to this Office should have been made within 10 working days from October 13, 1975. Since the protest by York was not filed (received) in this Office until December 22, 1975, it is untimely and not for consideration on the merits.


Paul G. Dembling
General Counsel